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4.419 Family and Medical Leave Policy

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Type of Policy <input checked="" type="checkbox"/> University <input type="checkbox"/> <i>Campus</i> <input type="checkbox"/> <i>Department/Unit</i> <input type="checkbox"/> <i>Interim</i>		Family and Medical Leave Policy 4.419	
Human Resource Policies		Effective date: June 2, 2014	
Policy History:	Approved by:	Resolution #	Date:
Approved	Chancellor	N/A	February 22, 2012
Revised	Chancellor	N/A	May 29, 2014
Responsible Office:	Responsible Administrator:	Contact information:	Applies to:
Office of Human Resources	Director of University Human Resources	937-769-1375	All Employees

I. Introduction and Purpose

A. Antioch University (“AU” or the “university”) employees are entitled to certain forms of family and medical leave in accordance with state and federal laws, AU policy, and collective bargaining agreements for represented employees. Leaves of absences requested under this policy will be granted and interpreted according to AU policies and the rules adopted by the Department of Labor (as they may be amended from time to time) then in effect at the time the leave is requested. In some circumstances, AU policy is more generous than required under state and federal laws.

B. The university recognizes the concerns of its employees to balance the demands of the workplace with the needs of their family. To address these interests, it is the intent of the university to fully comply with the Family and Medical Leave Act (“FMLA”), (20 U.S.C. § 2601 *et seq.*), as amended, as well as any family and medical leave entitlements provided under state law.¹ AU also extends family and medical leave provisions to cover

¹ Residents of California are additionally covered by the California Family Rights Act (“CFRA”), CA Gov’t Code § 12945.2, which mirrors and runs concurrently with the FMLA except as it relates to pregnancy disability leaves. Residents of Washington are additionally covered by the state of Washington’s Family Leave Act, Chapter 49.78 RCW, and the Military Family Leave Act, Chapter 49.77, which mirrors and runs concurrently with the FMLA.

domestic partner relationships. The purpose of this policy is to describe the rights to unpaid family and medical leave under the law and university policy.

C. The FMLA is a federal law which defines and delimits an employee's right to be away from work on leave with the right to return to work thereafter. However, FMLA leave is **unpaid** leave; the law does not require that employees be paid while away on FMLA leave. However, university policy is more generous than the law and an employee may have the right to be paid for the FMLA leave under other policies of the university, including its Paid Sick Days Policy, 4.415, or its Short-term Disability and Pregnancy Disability Benefits Policy, 4.717. Employees should consult with the HR office for guidance on accessing these paid benefits.

II. General Provisions

A. **Basic Leave Entitlement.** Subject to the terms and conditions of this policy, an eligible employee may be entitled to take up to 12 weeks of unpaid, job-protected leave in a rolling 12-month period for a qualifying absence.

B. **Eligibility.** To be eligible for leave, the employee must have a qualifying reason for the absence and meet all of the following requirements:

1. The employee must have been employed by AU for **at least 12 months**. Employment does not have to be continuous. Separate periods of employment will count toward the 12-month requirement, provided the break in service is less than 7 years, in accordance with applicable regulations;²
2. The employee must have worked **at least 1,250 hours** during the 12 months immediately preceding the first day of leave. These must be actual hours worked, not compensated hours. Hours paid through any paid time off benefits (vacation, holiday, etc.) do not count toward the 1,250 hour requirement; and
3. The employee must work at an AU worksite where 50 or more employees are employed within a 75-mile radius.

C. **Qualifying Reasons for Leave.** Upon notice and/or application to Human Resources, leave under this policy will be granted to an eligible employee for one of the following reasons:

1. incapacity of the employee due to pregnancy, prenatal medical care, or child birth;
2. to care for the employee's child after birth or placement of a child in the employee's home for adoption or foster care;
3. to care for an immediate family member with a Serious Health Condition as certified by a health care provider; or

² See 29 C.F.R. § 825.110(b)(1) and Cal. Code Regs., tit. 2 § 7297.0(e).

4. incapacity of the employee that makes the employee unable to perform the functions of his/her job due to the employee's own Serious Health Condition as certified by a health care provider.

Note: In addition, employees may be entitled to Military Family Leave to: (1) care for a covered service-member with a serious injury or illness incurred in the line of duty or (2) to attend to certain qualifying exigencies that arise out of a covered service-member's call or order to active duty status. *See the Military Family Leave provisions at Section VI below.*

III. Definitions

A. Serious Health Condition. For purposes of this policy, a "Serious Health Condition" is defined as an illness, injury, impairment, or physical or medical condition that involves one or more of the following:

a. Hospital Care

Inpatient care (*i.e.*, an overnight stay) in a hospital or residential medical facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care.

b. Absence Plus Treatment

A period of incapacity of more than three (3) consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition), that also involves:

- Treatment received two (2) or more times by a doctor or other "health care provider" within a thirty (30) day period; or
- Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.
- In either case, the first in-person visit to the health care provide must occur within seven (7) days of the first day of incapacity.

c. Pregnancy

Any period of incapacity or absence from work due to pregnancy or for prenatal care.³

d. Chronic Conditions Requiring Treatment

A chronic condition is one which:

³ California's CFRA does not classify pregnancy as a "Serious Health Condition." Employees in California are also eligible for leave protection under California's Pregnancy Disability Leave Law (PDL). CA Gov't Code § 12945(b)(2).

- Requires periodic treatment by a health care provider at least twice per year;
- Continues over an extended period of time (including recurring episodes of a single underlying condition); and
- May cause episodic rather than a continuing period of incapacity. Examples may include asthma, diabetes, or epilepsy.

e. Permanent/Long-Term Conditions Requiring Supervision

A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples may include Alzheimer's a severe stroke, or the terminal stages of a disease.

f. Multiple Treatments (Non-Chronic Conditions)

Any period of absence to receive multiple treatments (including any period of recovery from the condition) by a doctor or other health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three (3) consecutive days in the absence of medical intervention or treatment. Examples include: cancer (chemotherapy, radiation, *etc.*), severe arthritis (physical therapy), kidney disease (dialysis).

B. Not a Serious Health Condition. Ordinarily, unless complications arise or inpatient care is required, cosmetic treatments (such as most treatments for acne or plastic surgery) are not Serious Health Conditions. In addition, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches (other than migraine), sinus infections, bronchitis, routine dental or orthodontia problems, periodontal disease, *etc.*, are examples of conditions that do not meet the definition of a Serious Health Condition and do not qualify for family and medical leave.

C. Incapacity. For purposes of this policy, "incapacity" is defined as an inability to work, attend school, or perform other regular daily activities due to a Serious Health Condition, treatment of a Serious Health Condition, or recovery from a Serious Health Condition.

D. Immediate Family. For purposes of this policy, "immediate family" is defined as the employee's spouse, child or parent as follows:

- Spouse – Spouse means a husband and wife as defined by the laws of the state where the employee resides. AU extends this definition to include an unmarried domestic partner. To use leave to care for a domestic partner or the corresponding relative of the domestic partner, a completed Affidavit of Domestic Partnership form must be on file with HR and Benefits Services.

- b. **Child** – An employee’s child is a child under the age of 18, or a child over the age of 18 who is incapable of self-care because of a mental or physical disability at the time the FMLA leave is to commence. An employee’s “child” is one for whom the employee has a daily responsibility for care and includes a biological, adopted, foster, or stepchild. *[A separate definition of “son” or “daughter” is used for the Military Family Leave Provisions at Section VI below.]*
- c. **Parent** – Parent means a biological, adoptive, step or foster parent or any other individual who stood in *loco parentis* to the employee when the employee was a “child” as defined above. The term does not include parents “in-law.”

E. Total Leave Entitlement. Except in the case of leave to care for a covered service-member, an eligible employee’s leave entitlement is limited to a total of 12 workweeks during a retroactive rolling 12-month period. This translates to 480 hours for eligible full-time employees working 40 hours per workweek. *[See Military Family Leave provisions at Section VI for additional details].*

F. Retrospective Rolling 12-Month period. AU measures the 12-month period in which it calculates leave as the 12 months immediately preceding the commencement of the leave. In determining an employee’s leave entitlement under the retrospective rolling 12-month period, AU will subtract any FMLA leave that the employee has actually taken in the preceding 12-months from the maximum entitlement of 12 weeks. Leave is calculated on a pro-rata or proportional basis for part-time employees or those who routinely work less than 40 hours in a workweek.

For example: if an eligible employee who regularly works 30 hours in a workweek has not taken any FMLA leave in the preceding 12 months, the employee is eligible for up to 12 weeks or 360 hours of unpaid leave. If the same employee has taken 6 weeks of leave in the preceding 12 months, the employee is eligible for up to 6 weeks or 180 hours of unpaid leave.

G. Health Care provider. The FMLA defines a health care provider as an individual licensed by the state and authorized to practice medicine or provide health care services. In addition to a doctor of medicine or osteopathy, a health care provider may include: podiatrists, dentists, clinical psychologists, optometrists, chiropractors (limited to treatment constituting manual manipulation of the spine to correct a subluxation as demonstrated by an X-ray to exist), nurse practitioners, nurse-midwives, clinical social workers, physician assistants, or Christian Science practitioners who are certified within the scope of their practice.

IV. Notice and Application Procedures

Upon notice or application to Human Resources, a family and medical leave of absence will be granted to eligible employees who submit provider certification and/or other information verifying eligibility for leave, according to the following procedures:

A. Generally. AU is required to comply with the FMLA, and its subsequent amendments, as well as the CFRA for California residents, the Family Leave Act and Military Family

Leave Act for Washington state residents, and other applicable state laws. AU will approve or deny requests for family and medical leave in accordance with this policy and applicable law.

- B. Employer Designation of Leave.** The designation of family and medical leave is the responsibility of AU. The university will determine if an absence qualifies as job-protected leave under this policy and applicable law. AU reserves the right to designate a qualifying absence as family or medical leave even if such leave is not requested by the employee.

Employees are expected to cooperate with AU in its efforts to properly designate an employee's time off work as qualifying or disqualifying leave under this policy by providing sufficient information surrounding the circumstances of his or her absence(s) to permit a correct designation.

- C. Written Notice.** Notice and application for a leave of absence under this policy should be made in writing on AU provided leave forms whenever possible. Where the need for leave is foreseeable, notice should be given 30 calendar days prior to the beginning of the requested leave. In other situations, notice must be given within a reasonable time, generally not more than two (2) business days after the need for leave becomes known to the employee. If the employee does not provide timely notice of the need for leave, without reasonable excuse, leave may be delayed or denied, depending on the circumstances.

Employees failing to give notice of the reason for a qualifying absence within two (2) business days after returning to work may not subsequently assert family and medical leave protections for the absence.

- D. Oral Notice.** In some instances, an employee may give oral notice of the need for family and medical leave by following AU's workplace call-in procedures and providing sufficient information to enable AU to properly designate the leave. AU will notify the employee regarding any written information that must be provided.

- E. Provisional Approval.** AU will provisionally approve a family or medical leave of absence for eligible employees upon proper notification and/or application as described above while waiting for medical certification, or other requested documentation, to support the leave request.

During the provisional approval period, the employee must complete and submit the appropriate provider certification forms to support the need for leave. During this period, the employee is required to comply with all of AU's usual notice and call-in procedures each day the employee is absent from work. A pending leave request without final approval will not exempt employees from AU's attendance policy.

When the employee receives a written designation notice from AU documenting the start and end dates of the leave and/or the expected duration of the leave, the employee does not have to continue calling in to report that day's absence.

- F. **Final Approval.** Final approval of a leave request will not be granted until the employee has complied with his/her obligation to submit any required paperwork to AU in a timely manner. Failure to provide the requested documentation may result in a delay or denial of leave.
- G. **Provider Certification Form.** When an employee requests leave for the Serious Health Condition of the employee's self, spouse, child, or parent, a provider certification form is required. This form must be completed by the patient's health care provider and must verify, with reasonable medical certainty, that: (1) the employee's Serious Health Condition makes the employee unable to work or perform the essential functions of the job, or (2) that the employee's spouse, child, or parent is affected by a Serious Health Condition that requires the employee's care.

Employees must submit the completed provider certification form to Human Resources within 15 calendar days after the employer's initial request. Failure to timely return a completed certification form, with no reasonable excuse, may result in a denial of leave during the period of delay.

Employees will be given a reasonable opportunity to cure deficiencies in any incomplete or unclear certification. However, if the employee does not provide the requested documentation, the leave will not be designated as job-protected leave and the employee's absence will be deemed to be "leave without protection" for family and medical leave purposes. Non-protected absences are subject to AU's usual and customary attendance policy.

- H. **Medical Opinions.** AU reserves the right to require second and third medical opinions to further validate the employee's certification and reason for leave at AU's expense.
- I. **Recertification.** Employees may be required to provide periodic recertification of their Serious Health Condition and the estimated frequency and duration of their need for leave. Re-certifications are provided at the employee's expense and will be requested in accordance with applicable regulations.

V. **General Provisions, Employee Rights and Responsibilities**

- A. **Maximum Leave Available.** An eligible employee is entitled to a maximum of 12 workweeks of unpaid leave for qualifying conditions during a 12-month period measured backward from the date the employee's leave begins. *A maximum entitlement of 26 weeks applies when leave is taken to care for a covered service- member. See the Military Family Leave provisions at Section VI below.*
- B. **Limitations on Leave When Spouses/Parents Both Work for AU.** Consistent with the FMLA and CFRA, if both spouses or parents are employed by AU, their leave entitlement may be limited to an aggregate total of 12 weeks if the leave is taken for: (1) the birth or care of a child, (2) the care or placement of a child in the employee's home

for adoption or foster care; or (3) to care for the employee's parent (but not parent-in-law) with a Serious Health Condition.⁴

- C. **Substitution of Paid Leave.** A leave of absence under this policy shall be without pay, unless the employee has accrued paid leave time available under any of AU's paid leave policies (*i.e.*, vacation pay, sick leave, *etc.*). Employees are required to exhaust any accrued paid leave benefits before entering a leave without pay status. The use of any paid leave for a qualifying absence will run concurrently with, and not in addition to, the use of family and medical leave for that event. Under AU policies additional paid leave time does not accrue when the employee is in an unpaid status.
- D. **Concurrent Application.** An employee's entitlement to unpaid FMLA leave runs concurrently with other forms of employer provided leave and any family and medical leave entitlements provided under state law. For instance, an employee's absence may be designated as both paid vacation and unpaid FMLA leave, or paid sick leave and unpaid FMLA leave. In most cases, FMLA leave also runs concurrently with pregnancy disability leave provided under state law.⁵
- E. **Intermittent Leave.** An employee may take leave on an intermittent or reduced schedule basis to care for a spouse, child, or parent with a Serious Health Condition, or for the employee's own Serious Health Condition, but only when an intermittent schedule is "Medically Necessary."
1. Intermittent leave is "Medically Necessary" when certified as such by the patient's health care provider. To qualify as medically necessary there must be a medical need for the leave and it must be that such medical need can best be accommodated through an intermittent or reduced leave schedule.
 2. Employees needing intermittent leave or leave on a reduced leave schedule should make a reasonable effort to schedule their leave to as not to disrupt AU's operations. For example, foreseeable intermittent leaves (*e.g.*, doctor's appointments, physical therapy, *etc.*) should be scheduled outside of working hours or as close to the beginning or ending of the employee's normal work shift as possible.
 3. AU reserves the right to require documentation from employees for scheduled appointments to confirm the purpose of their absence.
 4. AU reserves the right to transfer or reassign an employee needing foreseeable intermittent leave to an alternative position with equivalent pay and benefits that better accommodates the employee's intermittent or reduced leave schedule.

⁴ California CFRA does not impose this combined 12-week limitation on spouses caring for parents. See Cal. Code Regs., tit 2 § 7297.1(c). In addition, if the employees are not married, they may have different family care leave rights under the FMLA, because the FMLA does not recognize unmarried domestic partner relationships.

⁵ Special rules apply for residents of California because pregnancy is not considered a serious health condition under the CFRA. See Human Resources for more information regarding pregnancy leave entitlements in California.

Transfer to an alternative position requires compliance with any applicable collective bargaining agreement.

- F. **Adoption and Foster Care.** When an employee is requesting family and medical leave for the care and placement of a child in the employee's home for adoption or foster care, the employee must provide information and documentation to verify the leave entitlement.
- G. **Birth and Care of a Child.** When the employee requests leave for the birth, care, or placement of the child in the employee's home (*i.e.*, bonding time), the leave must be taken in a single, continuous block of time, unless AU and the employee agree to an intermittent or reduced schedule. An intermittent or reduced schedule must be approved in advance by AU in its sole discretion.⁶
- H. **Effect on Benefits.** An employee on family or medical leave will continue to be covered under the employer sponsored benefit plans, including health, life, and dental, under the same conditions and coverage requirements as would have been provided if the employee were continually working throughout the leave period.
1. **Payment of Premiums.** Employees in a paid leave status will continue to pay their share of any insurance premiums through payroll deduction. If the employee is in a leave without pay status, the employee must pay his/her share of the insurance premium(s) before the first day of the month in which the premium is due. Employees must make arrangements for these payments with the Payroll Office.
 2. **Termination of Coverage.** If the employee's insurance premium is more than 30 calendar days late, AU may terminate the employee's coverage after required notification.
 3. **Reimbursement of Employee Contribution.** If AU pays the employee's insurance premium contributions missed by the employee while the employee was on leave, the employee will be required to reimburse AU for delinquent payments (on a payroll deduction schedule) upon return from leave. In such case, the employee will be required to sign a written statement promising to repay and authorizing the payroll deduction for the delinquent payments.
 4. **Reimbursement of Entire Premium.** AU may recover the full cost of insurance premiums paid on behalf of an employee if the employee fails to return from leave, unless the reason the employee does not return is (1) the continuation of a Serious Health Condition of the employee or covered family member; or (2) circumstances beyond the employee's control.
 5. **Re-Elect Coverage.** An employee may choose not to participate in one or more employer provided benefit plans while on leave. In such case, the employee is

⁶ Special rules apply for California residents. Under the CFRA the basic minimum leave duration is two-weeks when the leave is used for "baby bonding." However, the employer must grant a request for leave of less than two weeks' duration on any two occasions.

entitled to re-elect coverage upon return from leave, without any qualifying period or pre-existing condition exclusions.

- I. **Reinstatement Rights.** Employees returning from a family or medical leave of absence will be reinstated to the same position as they held before the leave. However, if the employee is unable to perform the essential functions of that position due to a mental or physical condition, including the continuation of a Serious Health Condition, the employee has no right to an alternative position under the FMLA.

Employees on leave pursuant to this policy do not receive preferential treatment or greater rights than employees not on leave. Thus, if the employee's position would have been eliminated, or the employee would have been terminated, but for the leave, the employee does not have a right to reinstatement.

- J. **Reinstatement Requirements.** An employee on leave due to his/her own Serious Health Condition may be required to provide a medical fitness-for-duty certification before returning from leave. The certification must provide that the employee is able to safely return to work without any restrictions. (In cases of an employee who is disabled within the meaning of the Americans with Disabilities Act ("ADA"), the fitness-for-duty certification must certify that the employee is otherwise qualified to return to work within the meaning of the ADA).

1. AU may delay an employee's reinstatement until the requested fitness-for-duty certification is received.
2. An employee failing to provide certification of his/her ability to return to work from a Serious Health Condition may be terminated.
3. Employees on a leave of absence pursuant to this policy are expected to keep AU reasonably informed of their status and periodically report on their intent to return to work.

- K. **Early Return from an Approved Leave.** Employees wishing to return from leave earlier than expected must provide AU with reasonable notice (generally two business days) of his/her intent to make an early return to work.

- L. **Non-Discrimination Rights.** Employees may exercise their rights to family and medical leave without fear of reprisal. AU will not interfere with an employee's leave entitlement under any applicable law nor discriminate against an employee for taking or requesting leave.

1. The use of leave will not be used as a factor in making hiring, promotion, discipline, or any other employment decisions regarding the employee.
2. Absences qualifying for protection under this policy will not be counted as unexcused under AU's attendance policy. However, employees requesting or receiving leave are required to comply with all aspects of this policy and normal call-in procedures.

M. Compliance and Fraud. Employees failing to comply with these policies and procedures may be denied the use of job-protected leave. In addition, the use of family and medical leave for purposes other than those set forth in this policy is grounds for disciplinary action, up to and including termination of employment and reimbursement to AU of wages and benefits paid during the leave.

N. Unrelated Disciplinary Action. Making a request for family and medical leave or giving notice of a qualifying absence will not enable an employee to avoid disciplinary action then pending against him/her. If prior to taking leave the employee was the subject of an investigation or was on track to receive a disciplinary action for violation of any of AU's policies, procedures, or work rules, that investigation or disciplinary process, if suspended due to the employee's absence from work, will resume upon the employee's return to work. However, no disciplinary action will be taken against an employee for requesting or receiving a qualifying leave under this policy.

VI. Military Family Leave Provisions. In certain situations, military families are entitled to unpaid, job-protected leave for reasons related to a covered family member's service in the armed forces. These Military Family Leave provisions supplement AU's family and medical leave policy and provide employees with notice of their rights to such leave. Except as provided below, an employee's use of Military Family Leave is governed by the FMLA and applicable state law in accordance with the policy above. As with all leave entitlements, leave requests will be granted and interpreted according to rules adopted by the Department of Labor at the time the leave is requested.

A. Eligibility. Same as above.

B. Qualifying Reasons for Leave. Upon notice and/or application to Human Resources, a Military Family Leave of Absence will be granted to an eligible employee for the following qualifying reasons:

1. **Military Caregiver Leave.** To care for a covered service-member with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin of the covered service-member; or
2. **Qualifying Exigency Leave.** To attend to certain qualifying exigencies arising from the fact that a covered service-member has been called to active duty status, if the employee is the spouse, son, daughter, or parent of the covered service-member.

C. Definitions

1. **Covered Service-Member.** A covered service-member includes members of the National Guard or Reserves, certain retired members of the regular armed forces, and members of the regular armed forces who are deployed in a foreign country.

2. **Son or Daughter.** For purposes of the Military Family Leave provisions, an employee's son or daughter is a covered service-member who is the employee's biological, adopted, or foster child, step child, legal ward, or a child for whom the employee stood in *loco parentis*, and who is of any age.
3. **Next of Kin.** A covered service-member's "Next of Kin" means the nearest blood relative, other than the covered service-member's spouse, parent, son, or daughter, in accordance with FMLA regulations (§ 825.122 and § 825.127).
4. **Serious Injury or Illness.** An injury or illness sustained by a covered service-member in the line of duty, while on active duty, that renders the service-member medically unfit to perform the duties of his or her office, grade, rank, or rating. This definition is not the same as a "Serious Health Condition" for other family and medical leave purposes.

D. **Notice and Application Procedures.** Same as above.

E. **General Provisions, Employee Rights and Responsibilities.** Same as above.

F. **Military Caregiver Leave.** An eligible employee may take up to 26 weeks of leave during a single rolling 12-month period to care for a covered service-member injured in the line of duty.

1. **One-time Entitlement.** Military Caregiver Leave is a one-time entitlement per service-member, per-injury, and does not renew each year.
2. **Calculation of the Leave Period.** The single 12-month period for calculating Military Caregiver Leave begins on the first day the employee takes leave to care for a covered service-member and is measured forward from that date. Note: this is different from the rolling 12-month period used for all other qualifying absences, which are measured backward from the date an employee uses any qualifying leave.
3. **Maximum Entitlement.** Leave taken to care to an injured or ill service-member, when combined with other family and medical qualifying leaves, may not exceed 26 weeks in a single 12-month period.

G. **Qualifying Exigency Leave.** An eligible employee may take up to 12 weeks of leave during a single rolling 12-month period for any "qualifying exigency" arising out of the fact that a spouse, son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation.

1. **Qualifying Exigency.** The Department of Labor recognizes eight (8) "qualifying exigencies" as follows:
 - a. Short-notice deployment;
 - b. Military events and related activities;
 - c. Childcare and school activities;
 - d. Financial and legal arrangements;

- e. Counseling;
- f. Rest and recuperation;
- g. Post-deployment activities; and
- h. Additional activities not encompassed in the other categories, but agreed to by the employer and employee.

2. **Maximum Entitlement.** Leave taken due to a “qualifying exigency” when combined with other family and medical qualifying leaves, may not exceed a total of 12 weeks in a single rolling 12-month period measured backward from the date the leave begins.
3. **Limitations on Timing and Duration of Leave.** Qualifying exigency leave will be considered and approved within the rules established by the Department of Labor. 29 C.F.R. § 825.126. Depending on the qualifying exigency, the rules permit only a limited number of job-protected absences, which must be used during the time permitted by the rule. A full 12 weeks of leave is not permitted in all instances.
 - a. Short-Notice Deployment. Leave requested due to the short-notice deployment of a covered service-member may only be used during the seven (7) calendar days prior to the deployment.
 - b. Rest and Recuperation. Leave requested to spend time with a covered service-member who is on short-term rest and recuperation leave is limited to five (5) days of leave for each instance.
 - c. Post-Deployment Activities. Leave requested for post-deployment activities, such as attending arrival ceremonies, reintegration briefs or funeral arrangements, must occur within 90 days following the covered service-member’s active duty status.

Additional details regarding Military Family Leave entitlements and obligations can be obtained from Human Resources or the FMLA regulations.

Policy Cross Reference

Medical Examinations and Fitness for Duty	Policy # 4.513
Military Leave / Re-employment	Policy # 4.421
Paid Sick Days	Policy # 4.415
Short-term Disability and Pregnancy Disability Benefits	Policy # 4.717

Forms Cross Reference

Affidavit of Domestic Partnership	Request Form from HR Dept.
FMLA Request Form	Request Form from HR Dept.
FMLA Medical Certification Form	Request Form from HR Dept.